

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0073P

Gross Income Tax

Fiscal Years Ended 09/30/94 and 09/30/95

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, incorporated in Delaware on August 29, 1994 was audited for fiscal years 1994 and 1995. Upon audit it was discovered that the taxpayer failed to report its service receipts in high rate income. It reported those sales in low rate income.

Taxpayer requests that the department waive the negligence penalty.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty because it failed to report gross income at the high rate of tax in 1995.

Taxpayer, in a letter dated February 5, 1999 protested penalties assessed and states that it has always tried to comply with the state to the best of their ability. It states that it reported the correct amount of sales, however, because they were not aware that income from service contracts was taxable at a higher rate than income received from selling products, it did not deliberately underpay the tax.

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PAGE #2

The department agrees that the taxpayer did not intentionally disregard the laws and regulations of Indiana but finds that the taxpayer was negligent in failing to remit the proper amount of tax at the correct rate. The assessment consisted of over fifty percent (50%) tax due for 1995.

The taxpayer did not show reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.